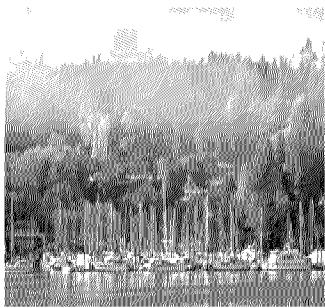


Water Law news News for October 4, 2010  
Mary Grady to: Steven Neugeboren  
Bcc: Mindy Kairis

10/04/2010 09:40 AM

From: Mary Grady/DC/USEPA/US  
To: Steven Neugeboren/DC/USEPA/US@EPA,  
Bcc: Mindy Kairis/DC/USEPA/US



Water Law News  
for October 4, 2010



HIGHLIGHTS

California  
**Governor Signs Energy-Related Measures,  
Two Environmental Quality Act Amendments**

LOS ANGELES—Legislation requiring utilities to purchase energy storage systems was among a flurry of energy- and environment-related measures California Gov. Arnold Schwarzenegger (R) signed into law Sept. 29-30....

Climate Change  
**U.S. Needs to Clarify Adaptation Strategy,  
Detail Risks of Failing to Act, Report Says**

The Obama administration should outline a national strategy to prepare the United States for rising sea levels and other climate change effects, and should clearly explain the risks of not doing so, according to a report released Oct. 1....

Drinking Water  
**EPA Sends Perchlorate Regulatory Decision  
To OMB, Possible First Step in Rulemaking**

The Environmental Protection Agency has sent to the White House Office of Management and Budget a perchlorate regulatory determination but has not yet disclosed whether it plans to regulate the substance under the Safe Drinking Water Act....

Enforcement  
**Settlement Requires Oregon to Adopt  
Logging Rules to Protect Coastal Waters**

LOS ANGELES—Oregon has until mid-2014 to adopt logging rules that adequately protect coastal waterways from polluted runoff or face losing millions of dollars in federal grants, under a settlement filed in federal court Sept. 28 (Northwest...

Everglades  
**Appeals Court Stays Order That Jackson  
Personally Appear at Hearing on Everglades**

TAMPA, Fla.—A federal appeals court in Atlanta has stayed a trial court order that Environmental Protection Agency Administrator Lisa P. Jackson appear personally to address EPA compliance with court-mandated deadlines to reduce...

Mining  
**Tennessee Governor Asks Interior Department  
To Protect Land From Mountaintop Mining**

RALEIGH, N.C.—Tennessee has filed a petition with the Department of the Interior's Office of Surface Mining seeking a declaration that certain state-owned mountain ridge lines are unsuitable for coal surface mining, Gov. Phil...

Water Pollution  
**EPA Approves Nebraska's New Water Standards**

ST. LOUIS—The Environmental Protection Agency said Sept. 30 that it has approved new and revised water quality standards for the state of Nebraska. The new standards establish limits for toxic algae to protect human health, and limits...

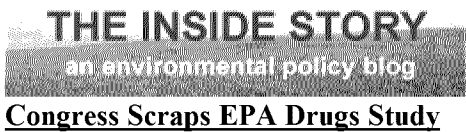


**New Studies Underscore Competing Pressures On EPA Over Gas Fracking**

Two new studies are highlighting the competing pressures EPA faces as it prepares a study on the natural gas extraction practice known as hydraulic fracturing, or fracking, with industry touting a recent study that warns that EPA's study could end the booming industry while activists are warning of the severe health effects of chemicals used in the practice.

**Court Rejects EPA Bid To Vacate Strict Construction Discharge Water Limit**

An appeals court has rejected EPA and industry requests to vacate the agency's remanded strict numeric discharge limit for the construction industry while the agency revises the limit, a move that could put states in a difficult situation of implementing a limit in general permits that EPA has acknowledged is based on a flawed analysis.



Lawmakers have dropped from a just-passed bill a requirement for EPA to launch new research into the environmental impacts of pharmaceuticals entering the wastewater stream, though the bill could make it easier for states to . . .

#### A Better Course On Mining

EPA science advisers are largely backing the agency's approach to limiting water quality impacts from surface coal mining, but are suggesting that EPA could better . . .



<http://www.greenwire.com>

## NATURAL GAS: N.Y. Democrat fires back at Obama admin in fight over fracking (10/01/2010)

Mike Soraghan, E&E reporter

A leading congressional critic of shale drilling is scolding the Obama administration for failing to try to slow drilling in the Northeast's Marcellus Shale.

Rep. Maurice Hinchey (D-N.Y.) fired off a **letter** yesterday to the commander of the North Atlantic Division of the Army Corps of Engineers, Brig. Gen. Peter "Duke" DeLuca. DeLuca represents the federal government on the little-known but powerful Delaware River Basin Commission (DRBC), and he rebuffed Hinchey's request that he use his vote to block gas drilling there until a lengthy study is completed.

DeLuca said in a previous letter the panel had to balance environmental and economic interests. Hinchey said the commission's job is to protect water quality, not spur economic development or "secure energy reserves," as DeLuca had stated (*Greenwire* , Sept. 22).

"Your letter raises very serious and troubling questions about the role of the Delaware River Basin Commission's federal representative," Hinchey wrote.

Hinchey's letter also demanded answers to a barrage of questions, such as "How have you complied with your agency's environmental review requirements?" and "Was your response to my letter approved by any superior officers ... or senior administration officials before it was sent?"

The Army Corps represents the federal government on the commission, which also includes representatives of the governors of four states, Delaware, New Jersey, New York and Pennsylvania. The federal-state hybrid was created in 1961 to address regional water conflicts, and oversees water quality and quantity issues in the 13,539-square-mile basin.

Hinchey wants DRBC to block drilling in its areas of upstate New York and northeast Pennsylvania to wait until the commission completes a "cumulative impact statement," but DeLuca said that could delay drilling for years.

DeLuca said he is tasked with representing a "family" of federal agencies who must support the basin's economic needs and develop energy supplies "while protecting the environment."

Not so, says Hinchey. He said the compact that created DRBC's charter calls for it to protect water quality but does not charge it with supporting economic development.

"The compact provides no charge or direction to the DRBC to 'secure energy reserves,' other than hydroelectric power," Hinchey wrote.

He added that two other federal agencies, the National Park Service and Fish and Wildlife Service, have written to the commission to express concerns about shale gas drilling in the basin.

Hinchey's assertion that DRBC is supposed to protect water, not boost business, tracks with the complaints of local and national environmental groups. Environmentalists are particularly concerned how high-pressure injections of chemical-laced water, called "hydraulic fracturing" might affect water quality.

But industry groups say fracturing is safe and Hinchey is too quick to dismiss economic concerns.

"The message Hinchey is delivering to the Army Corps here is pretty simple: 'I don't care about the devastating economic consequences of instituting a back-door ban on the Marcellus. And you shouldn't either,'" said Chris Tucker spokesman for Energy In Depth, a group formed by independent gas drillers to fight federal regulation.

Hinchey, a member of the powerful House Appropriations Committee, is seeking \$1 million for DRBC to study the cumulative effects of drilling in the basin, which provides drinking water to 5 percent of the country's population (*Greenwire* , Sept. 13).

Cash for the study has been set aside in the House Interior Appropriations bill, but it has not cleared the Senate.

## CHEMICALS: Cancer-causing toxins found in Gulf, scientists say (10/01/2010)

Alarming levels of cancer-causing chemicals have been found in a region of the Gulf of Mexico affected by the BP PLC oil spill, researchers said yesterday.

Scientists from Oregon State University found carcinogens in August, after BP closed off its well in mid-July.

Polycyclic aromatic compounds, or PAHs, were at 40 times the level previously found in the region, the researchers said. The chemicals

may enter the food chain through fish, they said.

"In a natural environment a 40-fold increase is huge," said Kim Anderson, a toxicologist and lead researcher. "We don't usually see that at other contamination sites."

Levels of PAHs have also risen two- to three-fold in the waters off Alabama, Mississippi and Florida, said Anderson.

The BP well spilled 4.9 million barrels of oil before it was closed off, and studies have suggested that most of the oil has dispersed. Scientists are still working to catalogue the environmental and health effects (Joshua Schneyer, [Reuters](#), Sept. 30). -- **GV**

## **COAL: Independent board agrees mountaintop removal harmful to streams (10/01/2010)**

An independent scientific panel has found mountaintop removal causes serious damage to Appalachian streams, in agreement with U.S. EPA's earlier study on the issue.

The Science Advisory Board, an independent panel set up by EPA, published its report where it said that valley fills increase the levels of electrical conductivity downstream from mining operations and threaten aquatic life in streams.

The panel advised EPA that electrical conductivity is a coarse measure of water quality, and the agency should more carefully characterize the nature of the damage.

The panel recommended that EPA study the areas affected by strip mining during different time frames, and create an inventory of all the habitats affected. It also called for more detailed studies of biodiversity and ecosystem loss.

The advisory board made its recommendations based on a study EPA released in April that looked at the water impacts of mountaintop removal (Ken Ward Jr., [Charleston \[W.Va.\] Gazette](#) , Sept. 30). -- **GV**

## **NATURAL GAS: Pa. orders pipeline for homes with contaminated wells (10/01/2010)**

An \$11.8 billion pipeline will be built to provide water to 18 homes in a rural Pennsylvania town whose wells have been contaminated by natural gas from a Marcellus Shale gas driller, Texas-based Cabot Oil & Gas Corp., according to the state.

The state Department of Environmental Protection ordered the pipeline yesterday and said that it would force Cabot to pick up the bill, though the driller is denying that it is the cause of contamination in Dimock Township, calling the decision "unfounded, irrational and capricious." It took out ads in Pennsylvania and said that it "intends to fight these allegations through its scientific findings."

Residents in Dimock, where one owner of a contaminated well drew a handgun on a Cabot employee, have sued Cabot and turned down all of the company's previous offers to drill new wells or install in-house water treatment systems for residents with contaminated water. The company says it has spent \$8 million investigating the problem.

In a letter to Pennsylvania Department of Environmental Protection Secretary John Hanger, Cabot CEO Dan Dinges said that Hanger had "an obvious and unfounded bias against Cabot."

Dinges also said that a Jan. 1, 2009, explosion of a resident's well never happened and provided Hanger documents that said there was no evidence of an explosion and that the resident had been using a blow torch to work on the well several days before the incident.

Hanger said that the state DEP has been working for almost two years to resolve the contamination problem and that he was shocked by the letter from Dinges. "It's remarkable that Cabot has not resolved this problem," Hanger said (Andrew Maykuth, [Philadelphia Inquirer](#) , Sept. 30). -- **AP**

## **NATURAL GAS: GE develops machine to recycle fracking water (10/01/2010)**

General Electric Co. has developed a machine that recycles water used in hydraulic fracturing and could reduce the volume of wastewater and fresh water needed by between 50 percent and 90 percent.

The mobile device, about the size of a truck, would boil wastewater to turn it into steam, which would condense into distilled water that could be reused for fracking.

Hydraulic fracturing, or fracking, pumps a mixture of water, sand and chemicals at high pressure deep underground to create fissures in dense shale deposits and release natural gas. The controversial method uses millions of gallons of water and produces even more wastewater every year. Recycling water on site will reduce water usage, as well as trucking and disposal costs for wastewater, GE said.

The machine will be available early next year (Jillian Cohan, [AP/FuelFix.com](#), Oct. 1). -- **LP**

### **ClimateWire -- Mon., October 4, 2010 -- Read the full edition** **1. BUSINESS: Small brewer generates fizz and profits with a carbon-neutral beer**

SOUTHWOLD, England -- A small English traditional brewer is taking giant steps

in its own private battle with human-induced climate change, not only greening its beer but saving water and making biogas out of its wastes. It plans to use it to feed part of the nation's electrical system and to fuel its fleet of beer trucks. To Adnams Southwold, in business since 1872 on the east coast of England, climate change is not small beer. Its campaign began several years ago -- well ahead of the rest of the brewing industry, much of which is doing little or nothing.

**2. NATIONS: Developing countries could sue for climate action -- study**

A new study out says vulnerable countries could sue the United States and other industrialized nations for action on climate change. The report published by the Foundation for International Environmental Law and Development (FIELD) based in the United Kingdom says small island nations and other threatened countries have the right and likely the procedural means to pursue an inter-state case before the United Nations' International Court of Justice.

**3. TRANSPORTATION: The efficient automaker's choice -- more batteries or smaller cars**

**4. NEGOTIATIONS: Japan warns about 'walking away' from Copenhagen Accord as new treaty talks begin**

**5. SUSTAINABILITY: Food production eats up 8 percent of national energy appetite -- study**

**6. BUSINESS: GE buys Calnetix waste-heat power technology**

**7. ACTIVISM: Explosive global warming video bombs**

**8. AUTOS: Conventional gas-powered engines still popular at Paris show**

**9. CLEAN TECH: Patents soar in 6 nations post-Kyoto Protocol -- study**

**10. NATIONS: Norway leads in effort to stop deforestation**

**11. STATES: N.M. gets EPA praise for cap-and-trade plan**

**E&ETV's OnPoint**

**12. NUCLEAR: NEI's Fertel discusses prospects for clean energy, renewable electricity standards**